

nomination dead in its tracks. No reason need be given, no public statement need be made, no one would even know whom to blame. With a secret whisper or a backroom deal, the nomination simply dies without even a hearing. This is just plain wrong.

I have watched the painful process over the last 9 years. During 6 of those years, the blue slip itself contained the words, "no further proceedings on this nominee will be scheduled until both blue slips have been returned by the nominee's home State Senators." As a result, I saw nominees waiting 1, 2, 3, even 4 years, often without as much as a hearing or even an explanation as to why the action was taken. These nominees put their lives on hold. Yet they never have a chance to discuss the concerns that may have been raised about them. These concerns remain secret and the nomination goes nowhere.

As a member of the Judiciary Committee, I believe our duty is either to confirm or reject a nominee based on an informed judgment that he or she is either fit or not fit to serve; to listen to concerns and responses, to examine the evidence presented at a hearing, and to have a rationale for determining whether or not an individual nominee should serve as a district court judge or circuit court judge or even a U.S. Supreme Court Justice. That duty, in my view, leaves no room for a secret block on nominees by any Member which prevents their hearing and confirmation.

I believe in the last three Congresses, based on information I have been able to come upon, that the blue slip has been used at least 21 times. Consider this: An individual graduates college with honors, finishes law school at the top of the class; he or she may even clerk for a prestigious judge or join a large law firm, or maybe practice public interest law or even serve as staff of the Judiciary Committee. In fact, a nominee can spend years of his or her life honing skills and developing a reputation among peers, a reputation that finally leads to a nomination by the President of the United States to a Federal court.

This must be the proudest day of his or her life. Then the nominee just waits. First for a few weeks. He or she is told things should be moving shortly but the Senate sometimes takes a while to get moving. Then the months start to go by, and maybe friends or associates make some inquiries as to what could be wrong. They don't hear anything, so the nominee is told just to wait a little longer; things will work themselves out.

I have had nominees call me and say: I have children in school. We need to move. Shall we do it? I don't know what to do. Do I continue my law practice?

A year passes with still no hearing or explanation; finally, the second year, and maybe the third, or even the fourth, if one is "lucky" enough to be renominated in the next session. The

time goes by without so much as a word as to why the nomination has not moved forward.

Simply put, the nominee has been blackballed by a blue slip, and there is nothing that can be done about it—no one to hold accountable.

I believe that if a Member wants to use a blue slip to stop a nominee from moving forward, that blue slip should be public. And I also believe that the Member should be prepared to appear before the Judiciary Committee and explain why the Senate should not consider the nominee and hold a hearing.

Making the blue slip public is no guarantee that a nominee will receive a hearing. It is no guarantee that an up or down vote will ever be held. But at least the nominee will have the chance to see who has the problem, and what that problem is. In many cases, a nominee may choose to withdraw. In others, perhaps a misunderstanding can be cleared up. Either way, the process will be in the open, and we will know the reasons.

I believe that many members of this Senate did not even realize they held the power of the blue slip until just recently.

In my view, the rationale behind the blue slip process is faulty. The process was designed to allow home state Senators—who may in some instances know the nominee better than the rest of the Senate—to have a larger say in whether the nominee moves forward. More often than not, however, this power is and will be used to stop nominees for political or other reasons having nothing to do with qualifications.

As a matter of fact, the Member who uses the blue slip, who doesn't send it in, or sends it in negatively, may never have even met the nominee.

If legitimate reasons to defeat a nominee do exist, those reasons can be shared with the Judiciary Committee in confidence, and decisions can be made based on that information—by the entire Committee.

The blue slip process as it now stands is open to abuse.

I would join with those—I am hopeful there are now those—on the Judiciary Committee who would move to abolish the blue slip.

Before I conclude, I want to read from a recent opinion piece by G. Calvin Mackenzie, a professor at Colby College and an expert on the appointment process. In the April 1, 2001 edition of the Washington Post, Mackenzie wrote:

The nomination system is a national disgrace. It encourages bullies and emboldens demagogues, silences the voices of responsibility, and nourishes the lowest forms of partisan combat. It uses innocent citizens as pawns in politicians' petty games and stains the reputations of good people. It routinely violates fundamental democratic principles, undermines the quality and consistency of public management, and breaches simple decency.

I find myself in agreement with every word in that quote. It is quite an indictment of our nominations process.

On both sides of the aisle, we hear: Well, they did it, so we are going to do it. Well, they blocked our nominee, so now we will block their nominee.

I don't believe that has any merit whatsoever. I believe at some point we have to stop this cycle. At some point, nominees have to come to the Senate Judiciary Committee, go promptly or as promptly as they can go to a hearing, have the questions asked, and we do our duty which we took our oath to do, which is to make the judgment whether that nominee qualifies to be a Federal court judge or district court judge.

I make these remarks to say that this is one Member of the Judiciary Committee who will happily vote to do away with the blue slip.

Thank you very much. I yield the floor.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. DASCHLE. Madam President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPLANATION OF ABSENCE

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Pursuant to rule 6, paragraph 2, I ask unanimous consent the Senator from Alaska, Mr. MURKOWSKI, be granted official leave of the Senate until July 9.

The PRESIDING OFFICER. Without objection, it is so ordered.

FORMAL OPENING OF THE NATIONAL JAPANESE AMERICAN MEMORIAL

Mr. AKAKA. Mr. President, earlier this afternoon, a few short blocks from this Chamber and in the shadow of the Capitol, hundreds of people gathered to celebrate the formal opening of the National Japanese American Memorial honoring the loyalty and courage of Japanese Americans during the Second World War.

As a World War II veteran and a native of Hawaii, I am well-acquainted with the exceptional contributions of Japanese Americans to the war effort, both at home and abroad. The battlefield exploits of the 442nd, 100th, and the MIS immediately come to mind. Less known but equally deserving of